



United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 111th CONGRESS, FIRST SESSION

Vol. 155

WASHINGTON, WEDNESDAY, FEBRUARY 25, 2009

No. 33

Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable TOM UDALL, a Senator from the State of New Mexico.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

O Lord, our God, by Your will we came into being, and at Your command, when the right hour is come, we shall one day leave this world. Let Your spirit lead our Senators today. May they increase in self-forgetfulness, in simplicity, in courage, and in trust, so that each day they will approach nearer to Your likeness. Lord, help them to offer themselves afresh to be used in Your service. Show them Your way and may they obey Your presence. Give wisdom to the perplexed, fresh vigor to the discouraged, and a clearer vision to all who seek Your will.

We pray in Your sacred Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable TOM UDALL led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,

Washington, DC, February 25, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TOM UDALL, a Senator

from the State of New Mexico, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. UDALL of New Mexico thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. REID. Mr. President, following leader remarks, if any, the Senate will resume consideration of S. 160, the District of Columbia House Voting Rights Act. Rollcall votes are expected to occur today and tomorrow in an effort to advance this bill to passage this week so we can turn to the consideration of the omnibus appropriations bill next week.

Mr. President, you will note that we have had no morning business. The reason for that is we are very in tune to finish this legislation. I want everyone to have ample opportunity to offer any amendment that they want on this bill. There should be no excuse. We have got all morning, all afternoon, all evening, all day tomorrow, but we are going to finish the bill one way or the other.

I hope we can do it the right way, the easy way, so we do not have to file cloture on it. This is a bill that should advance. Senator LIEBERMAN is so knowledgeable about Senate procedures that he will protect everyone's rights. But we cannot imagine what the amendments are going to be; they have to be offered. We have heard a lot of talk about amendments being offered, some germane, some not germane. But let's get it done and move on.

I do not want to have to file cloture on this bill. There is no reason to file cloture. If people have amendments,

they want to improve the legislation, let them offer the amendments. But if we do not have a lot of activity on this legislation, I will file cloture today for a Friday cloture vote. If we are unable to complete action on the bill tomorrow, Senators should be prepared to vote on Friday, even though it was previously announced that there would be no votes on that day. So everyone should be alerted that we may have votes on Friday.

There is no reason in the world that this simple piece of legislation cannot be completed. I am surprised we have to go into this tomorrow, quite frankly. We should finish it today—that would also be good—and we could do our work that we have scheduled for the weekend, and we could move this bill so we can start on that on Friday, because, as I said yesterday, we have to complete action on the omnibus spending bill by next Friday, the reason being that the continuing resolution runs out at that time.

Senator COCHRAN and Senator INOUE have worked hard to get the bill to this point. It has been available for everyone for days now. It is on our Web site. Everyone can read every word of it. All of the so-called earmarks, the congressionally directed spending are there. We can look at them, know who asked for them.

The earmarks are down by 50 percent from what they were. The amount of dollars in earmarks, congressionally directed spending, is way down from 4 percent to 1 percent. So let's move forward on the legislation we are dealing with here today and get this done as quickly as possible.

Because this is a 6-week work period, we have a lot of work to do. Some of us were out late last night at President Obama's speech.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



Printed on recycled paper.

S2433

DISTRICT OF COLUMBIA HOUSE
VOTING RIGHTS ACT OF 2009

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 160, which the clerk will report by title.

The assistant legislative clerk read as follows:

A bill (S. 160) to provide the District of Columbia a voting seat and the State of Utah an additional seat in the House of Representatives.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut is recognized.

Mr. LIEBERMAN. Mr. President, I thank the Chair. I thank the majority leader for his statement on this bill, S. 160, the DC House Voting Rights Act. I think he got right to the point. This measure has been before Congress for quite a long time. The bill before us is the result of a bipartisan compromise that was worked out in the House of Representatives last year between Delegate NORTON and then-Congressman Tom Davis.

There are questions about the bill. Obviously, there are different points of view. I am very grateful that yesterday 62 Members of this body, including 8 Republicans, voted to stop a filibuster to invoke cloture to get to this bill. I think people are ready to debate it on its merits.

I feel very strongly that this bill rights a historic injustice. It is hard to believe, when you stop to think about it; maybe we become accustomed to things and forget how unacceptable they are and how unaccustomed we should be, but 600,000 Americans are deprived of having voting representation in the Congress of the United States because they happen to live, of all places, in the capital of this greatest democracy in the world.

There are a lot of historic reasons for this originally, but then they became political reasons, frankly partisan. But none of them holds any real sway against the ideal that animates our country. This is a representative democracy. And finally the residents of the District got a delegate in the House, but the delegate cannot vote.

Think of it. If any one of us, the 100 of us who are privileged to be Senators were told for some reason that we could be Senators, we could represent our States, we could participate in debates, but then when the roll was called, we could not vote—it is unbelievable. This is what we have done to the 600,000 residents of the District of Columbia and to their Delegate in the House.

This bill would right that wrong. I would say that few, if any, of our colleagues would argue that somehow the status quo is acceptable; that is, that 600,000 people do not have a voting representative in Congress.

We are the only democracy—and, of course, we believe we are the greatest democracy in the world. Historically, we began the moment of democracy

throughout the world. We are the only democracy in the world where the residents of our capital do not have any voting representation in Congress.

So I think, generally speaking, Members of the Senate understand and accept the injustice of the status quo. The objections are primarily constitutional as I have heard them. I believe the arguments on behalf of the constitutionality of this proposal are strong and convincing, certainly to me.

My cosponsor of this legislation, the distinguished Senator from Utah, ORRIN HATCH, who has, generally speaking, been acknowledged as a wonderful lawyer, a great constitutional scholar, in fact, has written an essay for the Harvard Law Journal, making the case for the constitutionality of this proposal. I commend that to all of our colleagues, particularly those who have doubts about the constitutionality of this measure.

But I honestly think that most people have accepted the injustice question. The constitutionality, okay, let's have some amendments. As Senator REID said, we have got today, tomorrow. We are here. Let's have some amendments and put it in issue, give the Senate the choice that deals with the constitutionality. Some think there ought to be a constitutional amendment to achieve voting representation in the Congress. I do not think that is necessary.

Some think the District of Columbia, the residents should, for purposes of representation in Congress, become part of Maryland or Virginia. There is some historical precedent for that argument, way back. Let's debate it. But let's get it done. This measure has strong support and it has the urgency of justice delayed about it.

So the question before the Senate, as it so often is, are we going to face the differences here and debate them and then have a vote so we can conclude this debate and go back to our States Thursday evening and have a good weekend with our constituents at home or are we going to delay this and use this as a vehicle for unrelated matters that will achieve nothing? That, as usual, is the challenge before us.

I am here, and I look forward to colleagues coming as soon as possible to speak, and hopefully to offer amendments, with the goal that Senator REID has set—we can finish this goal by tomorrow, Thursday. Senator REID has made it clear that if he gets the sense during the day today that there is going to be delay, and there are amendments that are not relevant to the bill, he is going to file cloture. That will mean we will have to stay here on Friday to vote on cloture, and we will not be able to finish this bill presumably until the first part of next week. I hope that does not happen. Please come to the floor and let's talk about it.

I do want to, while I have a moment—I am sure Members are rushing from their offices right now to come to the floor to offer amendments—I do

want to talk for the record about the interesting compromise that Delegate NORTON and Congressman Davis achieved last year, and this answers the question of: Why Utah?

This bill would increase the size of the House of Representatives to 437, adding two new Members to the House. This is quite historic both in terms of righting the injustice suffered for now more than two centuries by the residents of our Nation's capital, but also that we are adding Members to the House of Representatives. That does not happen too often in our history.

One of those seats would go to the District of Columbia, the other as part of the compromise would, for the next 2 years, until the reapportionment of the House that will follow the 2010 census, go to Utah. I would say to clarify, that after the 2010 census, the District would retain its seat because of the injustice that we are correcting. But the second seat would go to whichever State deserves it; that is, according to the population found in the 2010 census.

So let me explain why Utah now. Utah has had an objection to the outcome of the 2000 census and the Congressional apportionment that followed it. According to the 2000 census, the State of Utah missed out on getting a fourth seat in the House of Representatives by 857 people.

This was a very thin margin of error, particularly when one considers the methodology of the count and the way it uniquely affected Utah. Remember, 857 people short of getting a fourth seat as compared to another State. According to officials of the State of Utah, somewhere between 11,000 and 14,000 members of the Church of Latter-day Saints, Mormons, missionaries living abroad but citizens of the United States, residents of Utah, were not counted. It is true, however, that members of the military who are abroad are counted.

In two separate court cases, the State of Utah argued that the methodology of the count of the census was flawed because government officials, including military personnel, were counted in the census, while other Americans, including the LDS missionaries, were not. Our colleagues in the House had an insight. It was one of those moments of compromise. Perhaps it seems we are combining apples and pears, but—and I will stop the metaphor and not go on to a sweet fruit salad—the fact is, this made a lot of sense. Our colleagues in the House recognized that in these two sets of complaints—the historic one for the District and the one for Utah, more current—there was a potential solution to the longstanding impasse on DC voting rights.

Let's state what is implicit. Over time, I fear people concluded, notwithstanding the justice of the argument made by residents of the District that they deserve voting representation, it is clear, and we must acknowledge what is clear, the registration of voters